

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

EDMUND TERRELL DAVIS,

Defendant.

CASE NO. 8:07CR76

MEMORANDUM AND ORDER

This matter is before the Court on the Report and Recommendation (Filing No. 32) issued by Magistrate Judge Thomas D. Thalken recommending denial of the Defendant's motion to suppress (Filing No. 11). No objections have been filed to the Report and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3(a).

The Defendant, Edmund Terrell Davis, seeks an order suppressing evidence seized as a result of the December 29, 2006, traffic stop, detention and search. Judge Thalken determined: the broken taillight on the vehicle in which Davis was a passenger violated Nebraska Revised Statute § 60-6,219(6) (2006); even if the taillight was not a per se violation of the statute, officers had an objectively reasonable basis to conclude that a traffic violation occurred based on the broken taillight; officers were entitled to conduct an investigation related to the broken taillight; in the process of investigating the broken taillight officers smelled marijuana, which allowed them to broaden the scope of their investigation; and the broadened investigation led to the discovery of marijuana in the vehicle and in a passenger's pocket, Davis's attempt to flee, and the discovery of the handgun that led to the instant charges.

Notwithstanding the absence of objections, pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3, the Court has conducted a de novo review of the record. The Court

has read the parties' briefs (Filing Nos. 12, 13) and the transcript (Filing No. 29). The Court has also viewed the evidence. (Filing No. 26.) Because Judge Thalken fully, carefully, and correctly applied the law to the facts, the Court adopts the Report and Recommendation in its entirety.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation (Filing No. 32) is adopted in its entirety; and
2. The Defendant's motion to suppress (Filing No. 11) is denied.

DATED this 14th day of June, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge